

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79200 of 2024

Arising Out of PS. Case No.-111 Year-2024 Thana- GUTHANI District- Siwan

Dhiraj Yadav Son of AShok Yadav Resident of Village- Tali Bujueg, P.S.-
Guthani, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Shyamli Kumari

For the Opposite Party/s : Mr. Tarkeshwar Nath Thakur

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 03-12-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner is apprehending his arrest in connection with Guthani P.S. Case No. 111 of 2024, F.I.R. dated 12.05.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. As per prosecution case, total 180 litres of illicit country made liquor has been recovered from the motorcycle.

4. Learned counsel for the petitioner submits that the petitioner has one criminal antecedent as stated in supplementary affidavit and he has falsely been implicated in the present case on the basis of confessional statement of apprehended co-accused persons. No incriminating material has



been recovered from the conscious possession of the petitioner. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

5. Learned APP for the State has vehemently opposed the prayer for anticipatory bail of the petitioner referring the provision contained in Section 76(2) of the Bihar Prohibition and Excise Act and submitted that the pre-arrest bail would not be maintainable.

6. This Court is aware of the decision of the full Bench in the case of *Ram Vinay Yadav vs. State of Bihar reported in 2019(2) P.L.J.R. 1089*. Having regard to the law laid down in the aforesaid judgment and the submission advanced on behalf of the parties, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of counsel for the petitioner.

7. Considering the aforesaid facts and circumstances and mainly the facts that the petitioner is having one criminal antecedent and nothing has been recovered from the conscious possession of the petitioner, let the petitioner, above named, in the event of his arrest or surrender before the court below within



a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of court of learned court of Exclusive Special Excise Court No.-1, Siwan in connection with Guthani P.S. Case No. 111 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions :-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) If the petitioner tamper with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order



shall not be delayed for purpose of or in the name of
verification.

(Rajesh Kumar Verma, J)

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